

REMARKS

Claims 1-5, 7-33, 35, 36, 38 and 39 are pending in the application. Consideration of this application in view of the following remarks is respectfully requested.

New Oath

The requirement for a new oath, as noted in paragraph 4 of the Action, is acknowledged. Applicants are in the process of obtaining a new oath that includes the citizenship of the inventors and shall forward that oath as soon as possible.

Rejections Under 35 USC Sec. 102(e) and Sec. 103(a)

Claims 1-3, 5-18, 29-31, 33, 35 and 38 were rejected under 35 USC Sec. 102(e) as being anticipated by Anderson (US 2003/0016174); Claims 4, 32, 36 and 39 were rejected under 35 USC Sec. 103(a) as being unpatentable over Anderson in view of Hewitt (US Patent No 6,526,538); and Claims 19-28 were rejected as being unpatentable over Anderson.

The rejections are respectfully traversed and reconsideration is requested.

Without addressing all of the reasons that Anderson does *not* anticipate or render unpatentable the pending claims, Applicants respectfully submit that the rejection based on Anderson is moot.

The publication by Anderson, 2003/016174A1 is a CIP of 10/005,068 (filed 12/5/01), which is a DIV of 09/648,404 (filed 8/24/00), which is a CON of 09/227,764 (filed 1/8/99).

The effective filing date of the material relied upon in the Section 102(e) rejection set out in the Office Action is **NOT** the *earliest filing date* of the application (1/8/99), but rather the CIP filing date of 12/5/01. (see MPEP Section 706.02 "Determining the Effective Filing Date of the Application").

The paragraphs of the Anderson publication relied upon in the final Office Action to reject the pending claims (para's [0370] and [0374]) simply are not taught or suggested by the earliest parent application (09/227,764, filed 1/8/99).

Therefore, Anderson is not entitled to that earliest priority date for the material relied upon in the final Action to reject Applicants' claims, and therefore is not 102(e) art against Applicants' claims.


Accordingly, Applicants respectfully submit that independent Claims 1, 7, 12, 19, 24, 29, 35, and are patentable over the cited references. Dependent Claims 2-5, 8-11, 13-18, 20-23, 25-28, 30-33, 35, 37, and 39 are believed to be patentable over the cited art as depending from one or another of the independent claims, and as reciting additional patentably distinct limitations.

Applicants, therefore, submit that all claims are patentable over the cited references and that the application is in condition for allowance.

If a telephone conference would facilitate examination of this application in any way, the Examiner is invited to contact Applicants' undersigned attorney. The Examiner's consideration of this matter is gratefully acknowledged.

Respectfully submitted,
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By:


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